

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

KEVIN CALDWELL,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 4:06CV394 RWS
	)	
TROY STEELE and	)	
CHRIS KOSTER <sup>1</sup> , Attorney General	)	
for the State of Missouri,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Kevin Caldwell. I referred this matter to United States Magistrate Judge Thomas C. Mummert, III for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On December 2, 2008, Judge Mummert filed his recommendation that Caldwell's habeas petition should be denied.

Objections to the Report and Recommendation were due to be filed by December 15, 2008. As of the date of this order, Caldwell has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the thorough reasoning of Magistrate Judge Mummert and will deny Caldwell's habeas petition for the reasons stated in the Report and Recommendation dated December 2, 2008.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal

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<sup>1</sup> Because Petitioner is challenging a sentence to be served in the future, the Clerk of Court shall add the Attorney General of Missouri as a proper party respondent.

constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing in this case, I will not issue a certificate of appealability.


Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation filed on December 2, 2008 is adopted and sustained in its entirety.

**IT IS FURTHER ORDERED** that Petitioner Kevin Caldwell's Petition for Writ of Habeas Corpus is **DENIED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 14th day of January, 2009.